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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

United States of America,  
Plaintiff,

vs.

Lonnie Swartz,  
Defendant.

CR-15-01723-TUC-RCC (DTF)  
GOVERNMENT'S ADDITIONAL  
PROPOSED QUESTIONS TO BE  
INCLUDED IN JURY QUESTIONNAIRE

COMES NOW the United States of America, by and through its undersigned counsel, and hereby submits an approved questionnaire and its additional proposed questions to be included in a jury questionnaire in this case.

On May 30, 2017, the Court ordered (Sealed Order Doc. 154) the following questions as being appropriate questions for a questionnaire:

**Introduction**

The Defendant, who is a Border Patrol Agent, is charged with Second Degree Murder. On October 10, 2012, the defendant fired his weapon through the International Border Fence on West International Street (near the DeConcini Port of Entry of Nogales, Arizona), shooting to death Jose Antonio Elena Rodriquez, a Mexican citizen, who was on the opposite side of the Fence in Nogales, Sonora, Mexico. The shooting incident occurred

1 during an incident involving individuals in Mexico, who climbed over the Fence into the  
2 United States, carrying bundles containing marijuana.

3 **Government Questions:**

4 1. Do you recall hearing or reading anything about this shooting?

5 a) If so, please state in detail how you learned about this case and what  
6 you know about it?

7 b) If so, is there anything that you have heard or read about this case that  
8 would make it difficult for you to be a fair and impartial juror in this case? Please explain.

9 c) If so, have you formed any opinions about the defendant's guilt or  
10 innocence? Please explain.

11 2. Do you have any personal knowledge about this shooting? If so, please  
12 explain.

13 3. Have you ever lived and/or worked, on or near the International Border with  
14 Mexico, including Nogales, Arizona? If so, please explain.

15 4. Have you or a family member ever worked in local, state or federal law  
16 enforcement, including Customs and Border Protection, Border Patrol, and Immigration  
17 and Customs Enforcement? If so, please explain.

18 5. Have you or a family member ever advocated for, individually or as a member  
19 of a group or organization, greater security along the International Border with Mexico to  
20 prevent illegal immigration and/or the smuggling of illegal drugs? If so, please explain.

21 6. Have you or a family member ever supported and/or belonged to a group or  
22 organization that provides a physical presence along the International Border with Mexico  
23 to assist law enforcement in stopping illegal immigration and/or the smuggling of illegal  
24 drugs? If so, please explain.

25 7. Because there will be evidence in this case that marijuana was illegally  
26 brought into the United States, are there any issues with drug addiction or abuse that would  
27 affect you if you are a juror in this case that you would like to bring to the Court and the  
28 parties in a confidential setting?

8. Is there anything about the charge, the facts and issues involved in this case, that you have learned from this questionnaire, which you believe would make it difficult for you to be a fair and impartial juror to both the government and the defendant? If so, please explain.

**Swartz' Questions:**

1. Juror Name: \_\_\_\_\_ Juror Number: \_\_\_\_\_

2. Place of Birth: \_\_\_\_\_

3. What is your current occupational status? (Check all that apply.)

Work full-time outside the home \_\_\_\_\_

Work part-time outside the home \_\_\_\_\_

Full-time homemaker \_\_\_\_\_

Unemployed \_\_\_\_\_

Student \_\_\_\_\_

Retired \_\_\_\_\_

Disabled \_\_\_\_\_

Other \_\_\_\_\_

4. What is the highest level of education you have completed?

High School \_\_\_\_\_

Bachelor Degree \_\_\_\_\_

Masters \_\_\_\_\_

Doctorate \_\_\_\_\_

5. Please state your marital status:

Married \_\_\_\_\_

Single \_\_\_\_\_

Divorced \_\_\_\_\_

Widowed \_\_\_\_\_

6. What is your annual household income?

Less than \$25,000 \_\_\_\_\_

Less than \$25,000-\$70,000 \_\_\_\_\_

Less than \$70,000-100,000 \_\_\_\_\_

Over \$100,000 \_\_\_\_\_

7. Please list any organizations to which you or your spouse or domestic partner belongs or in which either of you participate, either now or in the past five years:

Self: \_\_\_\_\_

Spouse/domestic partner: \_\_\_\_\_

8. Do you belong to any of the following groups or organizations?

- Border Action Network
- Coalición de Derechos Humanos
- American Civil Liberties Union
- Amnesty International
- Any other groups which either actively support or oppose Immigration of other individuals to this country. If so, identify the organization here:

\_\_\_\_\_

a) If you circled any of the above organizations, have you held any office or title in any of the organizations you circled above: Yes\_\_\_\_\_ No\_\_\_\_\_

b) Have you participated in any fund raisers or activities related to border issues or illegal immigration or drug smuggling activities along the border: Yes\_\_\_\_\_ No\_\_\_\_\_

c) If YES, please describe the activities you have participated in: \_\_\_\_\_

\_\_\_\_\_

9. How often do you read a newspaper? What newspapers?

Every day

Several times a week

Once/twice a week

Less often than once a week

Never

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10. How often do you watch TV News? What stations and programs?

\_\_\_\_\_

- 1 Every day \_\_\_\_\_  
 2 Several times a week \_\_\_\_\_  
 3 Once/twice a week \_\_\_\_\_  
 4 Less often than once a week \_\_\_\_\_  
 5 Never \_\_\_\_\_

11. How often do you listen to Radio News? What stations?

- 6 \_\_\_\_\_  
 7 Every day \_\_\_\_\_  
 8 Several times a week \_\_\_\_\_  
 9 Once/twice a week \_\_\_\_\_  
 10 Less often than once a week \_\_\_\_\_  
 11 Never \_\_\_\_\_

12. How often do you get News off the Internet? What sites?

- 12 \_\_\_\_\_  
 13 Every day \_\_\_\_\_  
 14 Several times a week \_\_\_\_\_  
 15 Once/twice a week \_\_\_\_\_  
 16 Less often than once a week \_\_\_\_\_  
 17 Never \_\_\_\_\_

13. Have you participated in or watched any marches, rallies, demonstrations or protests about border issues, the Border Patrol, or incidents that have occurred along the Border?

Yes\_\_\_\_\_ No\_\_\_\_\_

If YES, please describe any events you have participated in or watched:\_\_\_\_\_

\_\_\_\_\_

14. Have you written or called any elected or appointed government official to express your opinion about illegal immigration or drug smuggling, the border patrol or other related issues? Yes\_\_\_\_\_ No\_\_\_\_\_

If YES, please describe:\_\_\_\_\_

1 \_\_\_\_\_  
2  
3 15. Have you written or called any newspaper, magazine, television program or website  
4 to express your opinion about illegal immigration, drug smuggling, the border patrol or  
5 other related issues? Yes \_\_\_\_\_ No \_\_\_\_\_

6 If YES, please describe: \_\_\_\_\_  
7 \_\_\_\_\_

8  
9 16. Have border crossings, drug smuggling, or illegal immigration issues been  
10 discussed in your religious groups or church services, or other groups? Yes \_\_\_\_\_  
11 No \_\_\_\_\_

12 If YES, please describe what was discussed: \_\_\_\_\_  
13 \_\_\_\_\_

14 17. Have you performed any internet searches regarding the following people or topics  
15 (circle all that apply):

- 16 • Lonnie Swartz
- 17 • Border Patrol Shootings
- 18 • Illegal Immigration
- 19 • Minute Men
- 20 • Border Action Network
- 21 • Humanitarian Aid on the U.S.-Mexico Border

22 If you circled any of the above topics, please explain what you saw or read, and nay  
23 opinions you hold as a result of these topics: \_\_\_\_\_  
24 \_\_\_\_\_  
25 \_\_\_\_\_

26 18. Have you read any articles on the Internet regarding this case?

27 Yes \_\_\_\_\_ No \_\_\_\_\_

28 If YES, please indicate any and all articles and when you read it: \_\_\_\_\_

1 \_\_\_\_\_  
2 \_\_\_\_\_  
3 If YES, did you form an opinion about this case as a result of reading the article?

4 Yes \_\_\_\_\_ No \_\_\_\_\_

5 If YES, to the previous question, please explain your opinion: \_\_\_\_\_  
6 \_\_\_\_\_  
7 \_\_\_\_\_

8  
9 19. Is there anything that you know about the nature of the charges in this case that  
10 would affect your ability to fairly evaluate the evidence regarding whether or not the  
11 government has proven the guilt of the defendants beyond a reasonable doubt?

12 Yes \_\_\_\_\_ No \_\_\_\_\_ Unsure \_\_\_\_\_

13 If YES, please explain: \_\_\_\_\_  
14 \_\_\_\_\_  
15 \_\_\_\_\_

16 20. Do you know of any reason whatsoever why you cannot sit as a juror in this case  
17 and decide it fairly and impartially according to the law?

18 Yes \_\_\_\_\_ No \_\_\_\_\_ Unsure \_\_\_\_\_

19 Please explain: \_\_\_\_\_  
20 \_\_\_\_\_  
21 \_\_\_\_\_

22  
23 **Government's Proposed Additional Questions to be Included in the Questionnaire:**

- 24 1. Have you ever received training in the use of firearms? If so, please explain.  
25 2. If you worked in a law enforcement capacity or served in the military, did  
26 you ever discharge your firearm while in the line of duty?  
27  
28

1           3.       Would you not find the Defendant guilty even if the government proved its  
2 case beyond a reasonable doubt because the Defendant was on duty as a law enforcement  
3 officer at the time he committed the offense?

4           4.       Do you believe that law enforcement is legally entitled to use whatever force  
5 necessary, even if not legally justified, to protect the International Border with Mexico?  
6 Respectfully submitted this 15th day of August, 2017.

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8                   ELIZABETH A. STRANGE  
9                   Acting United States Attorney  
10                  District of Arizona

11                  *s/ Wallace H. Kleindienst*

12                  Wallace H. Kleindienst  
13                  Mary Sue Feldmeier  
14                  Assistant U.S. Attorney

15       Copy of the foregoing served via  
16 electronically or by other means this  
17 15th day of August, 2017, to:

18       Sean C. Chapman, Esq.  
19       Jim Calle, Esq.  
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